

Worksheet

Documentation of Land Use Plan Conformance and Determination of NEPA Adequacy (DNA)

U.S. Department of the Interior
Bureau of Land Management

UT-090-06-15 DNA

This Worksheet is to be completed consistent with the "Guidelines for using the DNA Worksheet," located at the end of the worksheet. The signed CONCLUSION at the end of this worksheet is part of an interim step in the BLM's internal analysis process and does not constitute an appealable decision. However, it constitutes an administrative record to be provided as evidence in protest, appeals and legal procedures.

A. BLM Office: Monticello Field Office (U-090)

Lease/Serial/Case File No.: _____

Proposed Action Title/Type: May 2006 Oil & Gas Lease Sale

Location of Proposed Action: As described below.

Description of the Proposed Action:

The Bureau of Land Management (BLM) proposes to offer fifteen parcels in a competitive oil and gas lease sale to be held on May 16, 2006. The parcels, totaling approximately 21,400 acres, are located in the northern and eastern part of the Monticello Field Office area (maps 1 thru 7, Appendix A). Not all parcels are located on public land administered by the BLM. Some of the parcels contain split-estate land (private or Indian surface and federal minerals). In all cases, the minerals are owned by the federal government and administered by the BLM.

The RMP directs that where federal oil and gas resources underlie lands not administered by the BLM, the "BLM leasing categories do not apply to these areas. The surface owner or administering federal agency manages the surface". However, where leasing is authorized, the "BLM administers the operational aspects of the leases with concurrence of the surface owner or administering agency" (RMP, pg. 27). Parcels would be leased and administered as follows:

BLM administered land

Parcels on BLM administered lands would be offered for lease in accordance with the lease categories and stipulations in the San Juan Resource Management Plan (RMP) of 1991.

Split estate land

Parcels would be offered for lease with stipulations required by the Surface Management Agency (SMA) in addition to the standard lease terms and conditions. If a lease issues on split estate lands, the BLM Monticello Field Office would oversee lease operations as part of its responsibility to administer the Federal mineral estate. This would be done in accordance with the San Juan RMP and Onshore Oil and Gas Order No. 1. The RMP provides standard operating procedures (SOPs) which would be applied to lease operations on split estate lands as a condition of approval. BLM would also require mitigation measures resulting from site specific environmental analysis conducted at the time surface disturbing operations are proposed. The BLM would maintain flexibility in applying these mitigation measures and the SOPs after consulting with the surface owner or SMA.

Appendix B contains the legal description and lease stipulations for each of the fifteen parcels on the preliminary list for the May 2006 lease sale.

If a parcel is not taken by competitive bidding, then it may be taken by a non-competitive sale for two years after the competitive offer. A lease may be held for 10 years (43CFR 3120.2-1), after which the lease would expire

unless oil or gas is produced in paying quantities. A producing lease would be held indefinitely by paying production.

A lessee's right to explore and drill for oil and gas, at some location on Category 1 and 2 leases, is implied by issuance of the lease. A lessee must submit an application for permit to drill (APD) to the BLM for approval and must possess a BLM approved APD prior to drilling. An appropriate NEPA document is prepared prior to approval of the APD. Following BLM's approval of an APD, a lessee may produce oil and gas from a lease without additional approval.

We have considered the proposed action and find that the existing NEPA documents are adequate because: (1) the current proposed action was previously proposed and analyzed (or is part of an earlier proposal that was analyzed); (2) resource conditions and other relevant circumstances have not changed significantly, and there is no significant new information germane to the proposed action; (3) there is no suggestion by the public of a significant new and appropriate alternative; and (4) the following Critical Elements of the Human Environment were also considered (Appendix C). Any resources that may be affected have been adequately analyzed in the existing NEPA documentation.

Applicant (if any):

B. Conformance with the Land Use Plan (LUP) and Consistency with Related Subordinate Implementation Plans

LUP Name	<u>San Juan Resource Management Plan</u>	Date Approved	<u>March 18, 1991</u>
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Other document	<u>San Juan Resource Management Plan, Reasonable Foreseeable Development Scenario for Oil and Gas Activity</u>	Date Approved	<u>May 11, 1993</u>
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Other document	<u>San Juan County Master Plan</u>	Date Approved	<u>July 8, 1996</u>
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The proposed action is in conformance with the applicable LUPs because it is specifically provided for in the following LUP decisions:

Page 27 of the San Juan RMP: Decision 1. "Lease oil and gas by category as shown below. (See Chapter 3 for Special Management Conditions)"

The category listing of lands shown on page 28 of the RMP is not reprinted here. All BLM administered lands in the resource area were placed in one of four lease categories i.e., open with standard conditions (category 1), open with special conditions (category 2), no surface occupancy (category 3), or no lease (category 4). The RMP prescribes special conditions (lease stipulations) for lands in categories 2 and 3 to protect other resources or resource values.

The RMP also provides that where federal oil and gas resources underlie lands not administered by the BLM, the "BLM leasing categories do not apply to these areas. The surface owner or administering federal agency manages the surface, and where leasing is authorized, BLM administers the operational aspects of the leases with concurrence of the surface owner or administering agency" (RMP, pg. 27).

Page 27 of the San Juan County Master Plan contains an objective for responsible natural resource use and development. With respect to the mineral industry, the county will continue to support the growth and development of these industries as opportunities present themselves and new technologies develop.

C. Identify applicable NEPA document(s) and other related documents that cover the proposed action.

List by name and date all applicable NEPA documents that cover the proposed action.

- 1.) San Juan Resource Management Plan Final Environmental Impact Statement, September 1987
- 2.) Legacy Energy Corporation, Lockhart Federal No. 1 Environmental Assessment (EA #UT-069-97-029), December 1997

List by name and date other documentation relevant to the proposed action (e.g., source drinking water assessments, biological assessment, biological opinion, watershed assessment, allotment evaluation, rangeland health standard's assessment and determinations, and monitoring the report).

- 1.) San Juan Resource Area Reasonable Foreseeable Development Scenario For Oil and Gas Activity, A Supplement to the Resource Management Plan, May 1993.
- 2.) Eligible Rivers for Suitability Study In the Wild and Scenic Process, BLM Monticello Field Office, July 2, 2004
- 3.) ACEC Evaluations for Existing and Nominated ACECs – Relevance and Importance, July 5, 2005
- 4.) Utah BLM Statewide Desert Bighorn Sheep Management Plan. September 1986.
- 5.) Desert Bighorn Sheep Management Plan Moab District. September 1987.

D. NEPA Adequacy Criteria

1. Is the current proposed action substantially the same action (or is a part of that action) as previously analyzed?

☒ Yes

☐ No

Documentation of answer and explanation:

The RMP/EIS analyzed the impacts of oil and gas leasing under five alternatives. The proposed action is part of the preferred alternative (alternative E) and implements the decisions made in the RMP (ROD, 1991).

The BLM administers the mineral estate where it is reserved to the federal government. Split-estate lands were considered in the EIS. Acreage for these lands with federal minerals were tabulated in the EIS and carried into the RMP (Draft RMP/EIS, 1986, pg. I-20)

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the current proposed action, given current environmental concerns, interests, resource values, and circumstances?

☒ Yes

☐ No

Documentation of answer and explanation:

The San Juan EIS analyzed the impacts of oil and gas leasing on all lands in the resource area under five alternatives to compare impacts of different degrees of development with various category restrictions (lease stipulations) for each alternative. The five alternatives balanced uses and conflicts between various resources and ranged from maximizing oil and gas development to minimizing production in favor of other resource values.

3. Is the existing analysis adequate in light of any new information or circumstances (including, for example, riparian proper functioning condition (PFC) reports; rangeland health standards assessments; Unified Watershed Assessment categorizations; inventory and monitoring data; most recent Fish and Wildlife Service lists of threatened, endangered, proposed, and candidate species; most recent BLM lists of sensitive species)? Can you reasonably conclude that all new information and all new circumstances are insignificant with regard to analysis of the proposed action?

☒ Yes

☐ No

Documentation of answer and explanation:

A review of the critical elements and other resources/concerns is documented in the Interdisciplinary Team Analysis Record Checklist for the proposed action (Appendix C). A more detailed discussion is provided below for the following:

Cultural Resources

A cultural resource records search was done by the Monticello Field Office (MFO) archaeologist that covered the Area of Potential Effect (APE). The APE is defined as the total acres within each lease parcel being considered in the May 2006 lease sale. Previous cultural resource surveys and recorded cultural properties were identified from the records search. The results of the records search indicate a moderate to high density of cultural properties. Several lease parcels have a predicted high site density based on acres previously surveyed. However, since the number of survey acres is not representative of the entire lease parcel, it is not expected that this site density would prevent drilling one well with associated activities within each lease parcel. It is concluded that at least one well could be located on each parcel without adversely affecting cultural resources because of the ability to avoid or otherwise mitigate potential impacts to cultural properties. This conclusion forms the basis for BLMs determination of no adverse effect which was made to the Utah State Historic Preservation Office (USHPO). Refer to Appendix D and E.

In addition, lease operations would be subject to the SOPs prescribed in the San Juan RMP. MFO will ensure that all of the requirements of the RMP for the protection of cultural resources are met. This would include a cultural resource survey, Native American consultation, USHPO consultation and other measures to meet BLM's legal responsibility.

Threatened, Endangered or Sensitive Animal Species

The BLM considers raptor species to be sensitive animals. Raptors are protected by the Endangered Species Act of 1973, as amended, the Bald Eagle Protection Act of 1940, and the Migratory Bird Treaty Act of 1918. The U.S. Fish and Wildlife Service (USFWS), Salt Lake City Field Office has developed guidelines for raptor protection titled "Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances". These guidelines identify potential effects and develop mitigation measures. Field surveys would be done at the time lease operations are proposed. If nesting raptors are found within the zone of disturbance, these guidelines (which are subject to modification on a site-specific and project-specific basis dependent on knowledge of the birds; topography and habitat features; and level of the proposed activity) would be followed in coordination with Utah Division of Wildlife Resources (UDWR) and the USFWS.

Habitat evaluations have been conducted for Mexican spotted owls (*Strix occidentalis lucida*) within the lease parcels proposed for sale that contain canyon habitat. These canyons were found to be lacking the suitable habitat components for Mexican spotted owls.

The Monticello Field Office has identified that four of the proposed lease parcels (UT0506-286, UT0506-297, UT0506-300, and UT0506-306) have potentially suitable Southwestern willow flycatcher (*Empidonax traillii extimus*) habitat. Site specific analysis and field surveys would be done if lease operations are proposed within these lease parcels and, if necessary, potential impacts to willow flycatchers would be mitigated in coordination with USFWS.

Migratory, wintering bald eagles (*Haliaeetus leucocephalus*) are occasionally observed flying or perching within the general locations of the oil and gas lease parcels proposed for sale. Since bald eagles in this area typically

feed on carrion, they are more likely to be in areas where deer are congregated in the winter. This would typically be within the crucial deer winter ranges. One of the proposed lease parcels is within crucial deer winter range and two are near the San Juan River where eagles like to hunt and roost (UT0506-286, UT0506-297, and UT0506-301). Site specific analysis and field surveys may need to be done if lease operations are proposed within these lease parcels and, if necessary, potential impacts to Bald eagles would be mitigated in coordination with USFWS.

According to the razorback sucker (*Xyrauchen texanus*) recovery goals, these fish can be found in the San Juan River from Shiprock, New Mexico to the inflow of Lake Powell because populations are being reestablished through stocking. The San Juan River in Utah to Neskahai Canyon in the San Juan arm of Lake Powell is designated critical habitat for razorback sucker. A small reproducing population of Colorado pikeminnow (*Ptychocheilus lucius*) exists in the San Juan River. According to the Colorado pikeminnow recovery goals, these fish can be found in the San Juan River from Shiprock, New Mexico to the inflow of Lake Powell. The San Juan River in Utah to Neskahai Canyon in the San Juan arm of Lake Powell is designated critical habitat for Colorado pikeminnow. Both of these species and their habitat may be found near or within the proposed lease parcels UT0506-286 and UT0506-297. Site specific analysis would be done if lease operations are proposed within these lease parcels and, if necessary, potential impacts to endangered fish would be mitigated in coordination with USFWS.

Gunnison Sage-grouse (*Centrocercus minimus*) are currently known to inhabit limited areas in Colorado and San Juan County, Utah. Because of the increasing habitat fragmentation, reduced and limited population distribution, and low and declining localized populations, this bird has been placed on the candidate list. Since 2000, there have been telemetry studies and extensive searches for sage-grouse in San Juan County. A very small percentage along the western edge of parcel UT0506-300 overlaps their habitat designation. The area within this parcel is several miles from any known sage-grouse and is not anticipated to be used by grouse in the near future without extensive habitat manipulation and a large population increase. Site specific analysis and field surveys would be done if lease operations are proposed within these lease parcels and, if necessary, potential impacts to Gunnison Sage-grouse would be mitigated in coordination with USFWS.

The Monticello Field Office has identified that two of the proposed lease parcels (UT0506-286 and UT0506-297) have potentially suitable Yellow-billed cuckoo habitat. Cuckoos are considered a riparian obligate and are usually found in large tracts of cottonwood/willow habitats with dense sub-canopies. Yellow-billed cuckoo surveys have been conducted along the San Juan River almost annually since 1998 and individuals have been found during the spring migration. No cuckoos have been detected during the nesting season. Site specific analysis and field surveys would be done if lease operations are proposed within these lease parcels and, if necessary, potential impacts to yellow-billed cuckoos would be mitigated in coordination with USFWS.

The BLM, Monticello Field Office determined that the proposed action "may affect, but is not likely to adversely affect" Mexican spotted owls, Southwestern willow flycatchers, Bald eagles, endangered fish, Gunnison Sage-grouse, and Yellow-billed cuckoos. The proposed action "will not result in destruction or adverse modification" of designated critical habitat for Mexican spotted owl and endangered fish. The USFWS concurs with this determination (Appendix D). No other federally listed threatened or endangered animal species, designated critical habitats, or suitable habitat are known to occur within or adjacent to the lease parcels proposed for sale (see section D.7. and Appendix D for reference to USFWS consultation).

Gunnison's Prairie Dog (*Cynomys gunnisoni*)

Five species of prairie dogs are found in North America. The Gunnison's prairie dog is the only species found in San Juan County. They are typically associated with desert grasslands. The Monticello Field Office has identified that nine of the proposed lease parcels (UT0506-284, UT0506-285, UT0506-286, UT0506-293, UT0506-294, UT0506-300, UT0506-302, UT0506-303, and UT0506-306) contain suitable habitat for prairie dogs. Site specific analysis and field surveys would be done if lease operations are proposed within these lease parcels and, if necessary, potential impacts to Gunnison's prairie dogs would be mitigated.

Desert Bighorn Sheep (*Ovis canadensis nelsoni*)

Parcels UT0506-279 and UT0506-280 are within desert bighorn sheep habitat in Lockhart Basin that was not considered in the RMP. In 1997, the BLM, Monticello Field Office prepared an Environmental Assessment (EA #UT-069-97-029) for Legacy Energy Corporation's proposed drilling in essentially the same area as the subject lease parcels. Through its analysis, BLM concluded that impacts to desert bighorn sheep could be mitigated

with reasonable conditions of approval, including timing limitations.

Wilderness Characteristics

Parcels and acreages within lands proposed for Wilderness by the Utah Wilderness Coalition (UWC) in the House of Representatives bill 1796 and Senate Bill 639 in the 108th Congress are shown in table 1 and, maps 8 and 9 (Appendix A).

Table 1 – Parcels and acreages within UWC proposal

Parcel #	Acres
UT0506-279	1,539
UT0506-306	57
UT0506-307	193
UT0506-305	137
UT0506-280	604
Total acreage	2,393

Table 2 - Areas that have or are likely to have wilderness character (WC), including the 1999 wilderness re-inventory and/or submissions of new information from the public.

Parcel #	Acres
UT0506-279	1,516
UT0506-280	1,414
Total acreage	3,010

BLM's Instruction Memorandum (IM) 2003-275-Change 1 addresses the issue of wilderness characteristics in land use plans. The IM defines wilderness *characteristics* as features of the land associated with the concept of wilderness. The IM then describes these features as naturalness, and outstanding opportunities for solitude and/or primitive and unconfined recreation. According to the IM:

"Lands and resources exhibit a high degree of naturalness when affected primarily by the forces of nature and where the imprint of human activity is substantially unnoticeable. BLM has authority to inventory, assess, and/or monitor the attributes of the lands and resources on public lands, which, taken together, are an indication of an area's naturalness. These attributes may include the presence or absence of roads and trails, fences and other improvements; the nature and extent of landscape modifications; the presence of native vegetation communities; and the connectivity of habitats."

IM-2003-275, Change 1, lists a range of attributes which contribute to naturalness, including various natural, biological, and cultural resources-such as air, soil, water, vegetation, cultural, paleontological, visual, special status species, fish and wildlife. All of these attributes were analyzed in the Draft RMP-EIS under the various alternatives.

IM 2003-275, Change 1, also advises BLM on how to evaluate new information contained in public wilderness proposals, but emphasizes that to be significant, the new information must relate to environmental concerns and bearing on the proposed action or impacts *that have not previously been analyzed* (emphasis added). The emphasis, therefore, is on whether or not the new information suggests that significant changes in land and resource conditions have occurred since the plan/EIS or other NEPA document was completed.

The document also suggests that although the NEPA record may not have specifically addressed *wilderness characteristics* in the analysis, the NEPA record may be considered adequate if BLM had reasonably considered the environmental effects to the lands and resources that contribute to wilderness. Consistent with this guidance, the BLM has determined this to be the case for the proposed lease parcels as evidenced by the

following:

1. WSA Analysis -The BLM inventoried the lease parcel areas for wilderness characteristics in its original 1980-83 Wilderness Inventory to decide what areas should be Wilderness Study Areas. No portions of these lease parcels were made Wilderness Study Areas.
2. ROS Inventory - Prior to completion of the EIS for the current RMP, a Recreational Opportunity Spectrum Inventory (ROS) was completed for the entire Field Office area. Wilderness characteristics such as opportunities for solitude, primitive unconfined recreation and naturalness were taken into account in determining the ROS class areas (pgs A-55 to A-58 in the May 1986 Draft RMP/EIS).

Primitive (P) class "Area is characterized by essentially unmodified natural environment of fairly large sizewith opportunities for isolation from sights and sounds of man, to feel a part of the natural environment, to have a high degree of challenge and risk, and to use outdoor skills"

Semi-Primitive Non Motorized (SPNM) class Area is characterized by a predominantly unmodified environment natural environment of moderate to large size, concentration of users is low but there is often evidence of other area users. with some opportunity for isolation from the sights and sounds of man but not as important for primitive opportunities.... " Motorized use is not permitted..

Semi-Primitive Motorized is defined as the same as Semi Primitive Nonmotorized except that motorized use is permitted.

Roaded Natural-(RN) class "is characterized by a generally natural environment, with moderate evidence of the sights and sounds of man....."

A review of figure 3-16 in the Draft RMP/EIS and the currently digitized ROS overlay in the BLM's GIS data base shows all of the current lease parcel areas were found to lack sufficient wilderness characteristics to meet ROS classification standards more primitive than Roaded Natural except parcels ParcelsUT0506-279and UT0506-280 were inventoried as Semi-Primitive Motorized. ROS classes are defined in the May 1986 Draft RMP/EIS Plan on pages A-55 and A-58.

The BLM currently feels the previous ROS inventory is still correct in this area. Recreational use patterns in these parcels have not substantially changed since the San Juan RMP was written. The majority of those seeking primitive and unconfined types of recreational use such as backpacking, horseback riding, commercial outfitting, etc., go elsewhere in the field office.

3. EIS alternatives - Oil and gas leasing within these parcels and its associated impacts on various resources or values, including wilderness characteristics, were substantially analyzed and discussed in Alternatives C, D and E of the San Juan RMP/EIS. Although the term "wilderness characteristics", was not specifically mentioned in the RMP, the concepts of wilderness (i.e., protecting and improving opportunities for primitive recreation, preserving wildlife habitats, preserving soils resources, protecting scenic values, preserving natural succession of plant communities) were all analyzed in the alternatives of the EIS as shown by the following references in the land use planning documents:

Pg. 1-4 and 1-5 of the Proposed Resource Management Plan, Final Environmental Impact Statement Volume 1, 1987

Alternative C.

- Use of the public lands for recreation by maintaining the spectrum of recreational opportunities now present.
- Production of wildlife habitat and protection of specialized wildlife habitats; and
- Preserving watershed values through protection of certain soils resources.

Alternative D.

- preserving natural succession of plant communities by minimizing surface disturbance, particularly in four specific areas;

- protection of cultural resources beyond the requirements of law; and
- Increasing the extent of areas available for primitive uses.

Alternative E (The Preferred Alternative)

- Protecting the opportunity for primitive and semi primitive recreation uses in certain areas;
- Protecting scenic values in certain areas;
- Protecting certain wildlife habitat areas;
- Preserving watershed values through protection of certain soils resources;
- Otherwise making public lands available for the production of mineral resources.

Alternative C

- “Favors recreation use, particularly primitive backcountry use.”

Alternative E

- Protecting scenic values in certain areas;

Pg. 2-15 and 2-17 of the Draft Resource Management Plan, Environmental Impact Statement, 1986

Alternative D

“In certain areas, all surface disturbance would be minimized and the land managed to let natural succession of plant communities predominate over human activities. These are areas of at least 10,000 acres, where human caused imprints now present are confined to less than 20 percent of the total area...). None of the lease parcels are within these identified natural succession areas.

The new information concerning wilderness characteristics, including the information provided by the public in the proposed wilderness bills, does not require additional NEPA analysis because: (1) significant changes in resource conditions relating to primitive and unconfined recreation have not occurred; and (2) the existing NEPA record adequately assesses impacts on those resources which contribute to naturalness. Thus, leasing these parcels is not likely to impact the resources on those parcels in a significant manner or to a significant degree not already considered in the existing NEPA document.

Wild and Scenic Rivers (WSR): San Juan River Eligible Segment – which is located just west of Montezuma Creek, from the west boundary of private property west of the Town of Montezuma Creek to the footbridge downstream approximately 9.8 river miles.

The Monticello Field Office completed an evaluation of eligible wild and scenic river segments in July 2004 as part of its current land use planning process. Parcels UT0506-286 and UT0506-297 are partially within the area of a wild and scenic river eligible segment (map 10, Appendix A). It was determined that this segment has outstandingly remarkable values (ORVs) of Fish, Wildlife, and Cultural/Historic. The eligible segment has a Tentative Classification of Recreational.

Although the determination of eligibility is new information since the RMP, management decisions in the current RMP take into account the resource values within the eligible segment. Most of the eligible segment is within a floodplain and/or riparian area which are protected by a No Surface Occupancy (NSO) lease stipulation in accordance with the RMP. The NSO stipulation would protect the ORVs associated with the aquatic or riparian area and floodplain (Fish and Wildlife). In addition, the standard lease terms provide adequate measures to protect cultural resources which may occur outside the floodplain or riparian area, including the ability to move activity 200 meters to avoid cultural sites. As a consequence of current management constraints, neither the free-flowing nature of the river segment with its related ORVs nor the Tentative Recreational Classification would be impacted by the proposed action.

San Juan River Potential ACEC - West Montezuma Creek from the west boundary of private property west of the town of Montezuma Creek to the footbridge downstream approximately 9.8 river miles.

Two parcels UT0506-286, UT0506-297 are partially within a Potential Area of Critical Environmental Concern (ACEC) (map 11, Appendix A.) The Monticello Field Office completed an evaluation of potential ACECs in January 2005 as part of its current land use planning process. Based on that evaluation, it was determined that this segment of the San Juan River meets the relevant and importance criteria for cultural, wildlife, and natural systems (riparian, plant communities) values. The boundary of the potential ACEC approximates the boundary of the WSR eligible segment described above.

The determination of relevant and important values is new information since the RMP. However, management decisions in the current RMP take into account the resource values within the potential ACEC and appropriate management constraints are prescribed in the RMP. As with the WSR eligible segment described above, these management constraints would also be sufficient to protect the relevant and important values of the potential ACEC.

Lockhart Basin Potential ACEC

Two parcels; UT0506-279 and UT0506-280 are largely within a Potential Area of Critical Environmental Concern (ACEC) currently being considered by BLM in its land use plan revision (map 12, Appendix A). The Monticello Field Office evaluated potential ACECs as part of the ongoing planning effort and determined that Lockhart Basin (47,783 acres) meets the criteria for relevant and important scenic values. Lockhart Basin is being considered as an ACEC under Alternative B (Conservation Alternative) in the RMP revision. Under Alternative C (Balanced Alternative), Lockhart Basin would not be designated an ACEC. Although BLMs determination of relevant and important scenic values is new information subsequent to the RMP, it is not significant new information which indicates that the proposed action may impact visual resources in a significant manner or degree not already considered in the existing RMP/EIS.

The BLM recognizes the high value visual resource in Lockhart Basin, as evidenced by its inventory and assignment of visual resource class II to the area. The BLMs inventory and assessment of mineral resources during the land use planning process also indicates that Lockhart Basin has a high potential for occurrence of oil and gas resources. The BLM considered these competing resource values when it made the resource allocation decisions in the RMP. The RMP provides that oil and gas development in Lockhart Basin, and vicinity, would be subject to standard terms and conditions. The BLM understood that by allowing oil and gas development, without special conditions to protect visual resources, there could be adverse affects on the existing visual resources in Lockhart Basin. Those impacts were adequately analyzed and documented in the RMP/EIS. The analysis concluded that increased development may result in a shift to a lower VRM class. The proposed action would not exceed the level of activity projected in the RFD.

In 1998, the Interior Board of Land Appeals (IBLA) upheld a BLM decision to allow oil and gas development in Lockhart Basin without a special stipulation to meet VRM class II objectives. IBLA concluded the following about BLMs implementation of its resource allocation decisions in the RMP:

"...in its resource allocation decisions, it clearly intends to allow oil and gas leasing in certain areas, including the Lockhart Basin, even if these activities result in adversely affecting the existing visual resources...We believe it altogether consistent with both the clear intent of the RMP, as well as the understanding of those who provided comments thereto, to enforce the resource allocation decisions even where they conflict with the visual resource determination." (144 IBLA 87).

4. Do the methodology and analytical approach used in the existing NEPA document(s) continue to be appropriate for the current proposed action?

☒ Yes

☐ No

Documentation of answer and explanation:

The methodology and approach used in the EIS are still appropriate for the current proposed action. A systematic, interdisciplinary process was used to analyze impacts. The methods of extraction, land requirements for exploration and development and the Reasonably Foreseeable Development (RFD) Scenario have not changed substantially since the EIS was completed.

The RFD assumptions for impact analysis in the EIS are still valid. The EIS actually analyzed impacts from drilling up to an average of 50 oil and gas wells per year through the year 2000. The RFD refined the predicted activity levels based on relation to geologic provinces. The subject lease parcels are in the Blanding Basin and Paradox Fold and Fault Belt geologic provinces. The RFD estimated that a combined total average of 40 wells would be drilled each year in these two provinces. To date, drilling activity has been far less than predicted.

5. Are the direct and indirect impacts of the current proposed action substantially unchanged from those identified in the existing NEPA document(s)? Do the existing NEPA documents analyze impacts related to the current proposed action at a level of specificity appropriate to the proposal (plan level, programmatic level, project level)?

☒ Yes

☐ No

Documentation of answer and explanation:

Impacts from the current lease proposal and subsequent lease operations would be the same as those analyzed in the EIS. This is because the proposed action is within the purview analyzed under alternative E in the EIS. The existing resource conditions and values have not changed since analysis in the EIS. The EIS used a somewhat general approach in analyzing impacts but these were tied to specific resources/values as present in specific areas. Leasing categories were established to meet management objectives for protecting certain resources/values in particular areas. Appropriate mitigation (stipulations) was designed for each of these categories. As previously stated in section B, the BLM lease categories do not apply to the split estate lands. However, the BLM has the responsibility for administering the minerals so these lands were considered in the RMP/EIS. The RMP does require that SOPs be applied to the split estate lands (Draft RMP/EIS, 1986, pg. A-1 thru A-6). The SOPs and any site specific mitigation would be applied in consultation with the private surface owner. This would be done in order to afford the same level of environmental protection on private surface as on the adjacent federal land.

6. Can you conclude without additional analysis or information that the cumulative impacts that would result from implementation of the current proposed action are substantially unchanged from those analyzed in the existing NEPA document(s)?

☒ Yes

☐ No

Documentation of answer and explanation:

As discussed in the answers to Questions (D.4) and (D.5), the EIS and RFD addressed reasonable future oil and gas activity. This included analysis of the potential collective and cumulative impacts of oil and gas leasing for up to 50 wells per year in the field office area. Because the reasonably foreseeable level of oil and gas activity analyzed previously is still appropriate and additional connected, cumulative or similar actions are not anticipated to exceed the threshold activity level previously analyzed, the potential cumulative impacts are substantially unchanged from those analyzed in the RMP/EIS.

7. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

☒ Yes

No

Documentation of answer and explanation:

The public and agencies were afforded extensive time for review and comment of the RMP and EIS. Numerous public meetings, agency and government coordination meetings and public comment periods were held during the preparation of the RMP/EIS. Public comment periods for the draft RMP/EIS totaled 5 months and comment periods for the final RMP/EIS totaled 6 months.

In addition, the BLM, Utah State Office also posts notification of all oil and gas lease sales on the Environmental Notification Bulletin Board (ENBB).

Native American Religious Concerns

On January 31, 2006 the Monticello Field Office sent letters to the Navajo Nation Historic Preservation Department, Red Mesa Navajo Chapter, Huerfano Navajo Chapter, Oljato Navajo Chapter, Aneth Navajo Chapter, Navajo Mountain Navajo Chapter, Mexican Water Navajo Chapter, Dennehotso Navajo Chapter, TeecNosPos Navajo Chapter and the Cultural Preservation Office of the Hopi Tribe (Appendix D). To date, no expressions of concern about the lease parcels have come forward from these Native American groups and none are anticipated based on consultation done for previous oil and gas lease parcels in the vicinity of the proposed lease parcels. If any concerns are raised by the tribes, those concerns will be addressed. Consultation will be considered complete if tribal response presents no objection or if response is not received seven (7) days prior to the date of the proposed sale. Additional consultation will be conducted should site-specific use authorization requests for a lease be received.

Utah State Historic Preservation Office (USHPO)

On January 31, 2006 the BLM, Monticello Field Office (MFO) sent a letter to the Utah State Historic Preservation Office (USHPO), in which a determination of no adverse effect was made for cultural resources located within the proposed lease parcels (Appendix D). On March 1, 2006 the BLM, Monticello Field office received concurrence from the USHPO with respect to the cultural resources determination for the May 2006 proposed oil and gas lease sale (Appendix D).

U.S. Fish and Wildlife Service (USFWS)

BLM Monticello Field Office identified potential issues or concerns as they relate to threatened or endangered species for several parcels in the Monticello Field Office. Informal consultation was initiated between the Monticello Field Office and the USFWS on February 10, 2006. On February 27, 2006 the USFWS concurred with the Monticello Field Office determination of "may affect, not likely to adversely affect" on the species and "will not result in destruction or adverse modification" of the designated critical habitats (Appendix D).

National Park Service (NPS)

Parcels UT0506-279 and UT0506-280 were previously considered for the August 2005 oil and gas lease sale under parcel numbers UT0805-261 and UT0805-26, respectively. These two parcels are located within Lockhart Basin.

The NPS commented on the August 2005 lease sale by memorandum dated May 13, 2005 and on the May 2006 lease sale by memorandum dated February 13, 2006 (Appendix D). The NPS expressed concern primarily for visual resources in the Lockhart Basin area. The NPS also made this concern known prior to BLMs approval of the San Juan RMP (Proposed San Juan RMP/Final EIS, 1987, Volume 2, pg.2-258 thru pg. 2-281). Oil and gas development and the potential impacts to visual resources within Lockhart Basin were adequately analyzed in the RMP/EIS. Lockhart Basin was inventoried by BLM as VRM II. However, consistent with the resource allocation decisions in the RMP, the area is managed as oil and gas category I (standard conditions). See section D.3 above for discussion of visual resources in Lockhart Basin Potential ACEC.

The NPS is also concerned about desert bighorn sheep in Lockhart basin. Although the RMP did not consider desert bighorn sheep, subsequent NEPA analysis did adequately analyze potential impacts to bighorn sheep in Lockhart Basin. In 1997, the BLM, Monticello Field Office prepared an Environmental Assessment (EA #UT-069-97-029) for Legacy Energy Corporation's proposed drilling in essentially the same area as the subject lease parcels. The BLM analysis concluded that impacts to desert bighorn sheep could be mitigated with reasonable conditions of approval, including timing limitations. The subject parcels in Lockhart Basin would include a lease notice to advise potential lessees that site specific mitigation measures may be required to protect desert bighorn sheep and their habitat (see section F. below)

The BLM previously responded to similar comments submitted by the NPS prior to approval of the San Juan RMP. Their comments covered a variety of issues, including visual resources in proximity of National Park units. The NPS comments were "provided on the basis of the National Park Service's Congressional mandate of 1916 to conserve the resources of units within the National Park Service..." The BLM responded as follows to the premise that the NPS mandate applies to the management of adjacent public lands:

"BLM is aware that the NPS Organic Act provides that NPS will regulate the use of NPS units so as to leave the lands unimpaired, and will authorize only those uses that will not derogate park values (16 U.S.C. 1 through 1a-1). However, Congress did not provide that this standard of management be applied to public lands, nor that NPS would authorize uses on public lands. FLPMA provides that all public lands (including those adjacent to or seen from NPS units) will be managed to provide for multiple use and sustained yield (43 U.S.C. 1701). FLPMA and other laws governing uses of public lands...do not require a different, more protective level of management for public lands adjacent to NPS units..." (Proposed San Juan RMP/Final EIS, 1987, Volume 2, pg.2-258)

E. Interdisciplinary Analysis: Identify those team members conducting or participating in the preparation of this worksheet.

<u>Name</u>	<u>Title</u>	<u>Resource Represented</u>
<u>Scott Berkenfield</u>	<u>Recreation Planner</u>	<u>Wilderness & Recreation.</u>
<u>Tammy Wallace</u>	<u>Wildlife Biologist</u>	<u>T&E Animals, Water Quality, Air Quality, Fish and Wildlife ,</u>
<u>Jeff Brown</u>	<u>Petroleum Engineering Tech.</u>	<u>Hazardous Materials</u>
<u>Nancy Shearin</u>	<u>Archaeologist</u>	<u>Cultural Resources, Paleontology Native American Religious Concerns, ACEC</u>
<u>Todd Berkenfield</u>	<u>Assistant Planner</u>	<u>ACEC, Wild and Scenic Rivers</u>
<u>Summer Schulz</u>	<u>Range Mgmt. Specialist</u>	<u>Invasive, Non-native Species.</u>
<u>Nick Sandberg</u>	<u>Lead Range Mgmt. Spec.</u>	<u>Prime or Unique Farmland</u>
<u>Paul Curtis</u>	<u>Range Conservationist</u>	<u>T&E Plants Floodplains, Wetlands/Riparian Areas Rangeland Health Standards, Grazing, Vegetation, Soils</u>
<u>Maxine Deeter</u>	<u>Realty Specialist</u>	<u>Visual Resources, Lands/Access</u>
<u>Ted McDougall</u>	<u>Team Leader</u>	<u>Environmental Justice, Socio-economics</u>

F. Mitigation Measures: List any applicable mitigation measures that were identified, analyzed, and

approved in relevant LUPs and existing NEPA document(s). List the specific mitigation measures or identify an attachment that includes those specific mitigation measures. Document that these applicable mitigation measures must be incorporated and implemented.

Special lease stipulations would be attached in accordance with the lease category restrictions prescribed in the San Juan RMP (Appendix B). Additional mitigation would result from site specific analysis at the time lease operations are proposed. These mitigation measures would be stipulated as conditions of approval consistent with section 6 of the standard lease terms.

Southwestern willow flycatchers may be found within four of the parcels. Therefore, parcels UT0506-286, UT0506-297, UT0506-300, and UT0506-306 would include the following lease notice:

The Lessee/Operator is given notice that the lands in this parcel contains riparian habitat that falls within the range for southwestern willow flycatcher, a federally listed species. Avoidance or use restrictions may be placed on portions of the lease. Application of appropriate measures will depend whether the action is temporary or permanent, and whether it occurs within or outside the nesting season. A temporary action is completed prior to the following breeding season leaving no permanent structures and resulting in no permanent habitat loss. A permanent action continues for more than one breeding season and/or causes a loss of habitat or displaces flycatchers through disturbances, i.e. creation of a permanent structure. The following avoidance and minimization measures have been designed to ensure activities carried out on the lease are in compliance with the Endangered Species Act. Integration of, and adherence to these measures will facilitate review and analysis of any submitted permits under the authority of this lease. Following these measures could reduce the scope of Endangered Species Act, Section 7 consultation at the permit stage.

Current avoidance and minimization measures include the following:

- 1. Surveys may be required prior to operations. All Surveys must be conducted by qualified individual(s), and be conducted according to protocol.*
- 2. Lease activities may require monitoring throughout the duration of the project. To ensure desired results are being achieved, minimization measures will be evaluated and, if necessary, Section 7 consultation reinitiated.*
- 3. Water production should be managed to ensure maintenance or enhancement of riparian habitat.*
- 4. Where technically and economically feasible, use directional drilling or multiple wells from the same pad to reduce surface disturbance and eliminate drilling in suitable riparian habitat. Ensure that such directional drilling does not intercept or degrade alluvial aquifers.*
- 5. Drilling activities will maintain a 300 ft. buffer from suitable riparian habitat year long.*
- 6. Drilling activities within 0.25 mile of occupied breeding habitat will not occur during the breeding season of May 1 to August 15.*
- 7. Ensure that water extraction or disposal practices do not result in change of hydrologic regime that would result in loss or degradation of riparian habitat.*
- 8. Re-vegetate with native species all areas of surface disturbance within riparian areas and/or adjacent uplands.*

Additional measures to avoid or minimize effects to the species may be developed and implemented in consultation with the U.S. Fish and Wildlife Service between the lease sale stage and lease development stage to ensure continued compliance with the ESA.

Bald eagles may be found during the winter months within three of the parcels. Therefore, parcels UT0506-286, UT0506-297, and UT0506-301 would include the following lease notice:

The Lessee/Operator is given notice that the lands in this parcel contains nesting/winter roost habitat for the bald eagle, a federally listed species. Avoidance or use restrictions may be placed on portions of the lease. Application of appropriate measures will depend whether the action is temporary or permanent, and whether it occurs within or outside the bald breeding or roosting season. A temporary action is completed prior to the following breeding or roosting season leaving no permanent structures and resulting in no permanent habitat loss. A permanent action continues for more than one breeding or roosting season and/or causes a loss of eagle habitat or displaces eagles through disturbances, i.e. creation of a permanent structure. The following avoidance and minimization measures have been designed to ensure activities carried out on the lease are in compliance with the Endangered Species Act. Integration of, and adherence to these measures will facilitate review and analysis of any

submitted permits under the authority of this lease. Following these measures could reduce the scope of Endangered Species Act, Section 7 consultation at the permit stage.

Current avoidance and minimization measures include the following:

1. Surveys may be required prior to operations. All Surveys must be conducted by qualified individual(s), and be conducted according to protocol.
2. Lease activities may require monitoring throughout the duration of the project. To ensure desired results are being achieved, minimization measures will be evaluated and, if necessary, Section 7 consultation reinitiated.
3. Water production should be managed to ensure maintenance or enhancement of riparian habitat.
4. Temporary activities within 1.0 mile of nest sites will not occur during the breeding season of January 1 to August 31, unless the area has been surveyed according to protocol and determined to be unoccupied.
5. Temporary activities within 0.50 miles of winter roost areas, e.g., cottonwood galleries, will not occur during the winter roost season of November 1 to March 31, unless the area has been surveyed according to protocol and determined to be unoccupied.
6. No permanent infrastructure will be placed within 1.0 mile of nest sites.
7. No permanent infrastructure will be placed within 0.50 miles of winter roost areas.
8. Remove big game carrion to 100 feet from on lease roadways occurring within bald eagle foraging range.
9. Avoid loss or disturbance to large cottonwood gallery riparian habitats.
10. Where technically and economically feasible, use directional drilling or multiple wells from the same pad to reduce surface disturbance and eliminate drilling in suitable habitat. Utilize directional drilling to avoid direct impacts to large cottonwood gallery riparian habitats. Ensure that such directional drilling does not intercept or degrade alluvial aquifers.
11. All areas of surface disturbance within riparian areas and/or adjacent uplands should be re-vegetated with native species.

Additional measures may also be employed to avoid or minimize effects to the species between the lease sale stage and lease development stage. These additional measures will be developed and implemented in consultation with the U.S. Fish and Wildlife Service to ensure continued compliance with the Endangered Species Act.

Endangered fish inhabit the San Juan River which runs along two of the parcels. Therefore, parcels UT0506-286 and UT0506-297 would include the following lease notice:

The Lessee/Operator is given notice that the lands in this parcel contain Critical Habitat for the Colorado River fish (bonytail, humpback chub, Colorado pikeminnow, and razorback sucker) listed as endangered under the Endangered Species Act, or these parcels have watersheds that are tributary to designated habitat. Critical habitat was designated for the four endangered Colorado River fishes on March 21, 1994 (59 FR 13374-13400). Designated critical habitat for all the endangered fishes includes those portions of the 100-year floodplain that contain primary constituent elements necessary for survival of the species. Avoidance or use restrictions may be placed on portions of the lease. The following avoidance and minimization measures have been designed to ensure activities carried out on the lease are in compliance with the Endangered Species Act. Integration, of and adherence to these measures will facilitate review and analysis of any submitted permits under the authority of this lease. Following these measures could reduce the scope of Endangered Species Act, Section 7 consultation at the permit stage.

Current avoidance and minimization measures include the following:

1. Surveys may be required prior to operations. All Surveys must be conducted by qualified individual(s).
2. Lease activities may require monitoring throughout the duration of the project. To ensure desired results are being achieved, minimization measures will be evaluated and, if necessary, Section 7 consultation reinitiated.
3. Water production should be managed to ensure maintenance or enhancement of riparian habitat.
4. Avoid loss or disturbance of riparian habitats.
5. Where technically and economically feasible, use directional drilling or multiple wells from the same pad to reduce surface disturbance and eliminate drilling in suitable riparian habitat. Ensure that such directional drilling does not intercept or degrade alluvial aquifers.

6. Conduct watershed analysis for leases in designated critical habitat and overlapping major tributaries in order to determine toxicity risk from permanent facilities.
7. Implement the Utah Oil and Gas Pipeline Crossing Guidance (from BLM National Science and Technology Center).
8. Drilling will not occur within 100 year floodplains of rivers or tributaries to rivers that contain listed fish species or critical habitat.
9. In areas adjacent to 100-year flood plains, particularly in systems prone to flash floods, analyze the risk for flash floods to impact facilities, and use closed loop drilling, and pipeline burial or suspension according to the Utah Oil and Gas Pipeline Crossing Guidance, as necessary to minimize the potential for equipment damage and resulting leaks or spills.

Water depletions from any portion of the Upper Colorado River drainage basin above Lake Powell are considered to adversely affect or adversely modify the critical habitat of the four resident endangered fish species, and must be evaluated with regard to the criteria described in the Upper Colorado River Endangered Fish Recovery Program. Formal consultation with USFWS is required for all depletions. All depletion amounts must be reported to BLM.

Additional measures to avoid or minimize effects to the species may be developed and implemented in consultation with the U.S. Fish and Wildlife Service between the lease sale stage and lease development stage to ensure continued compliance with the ESA.

If a lease is issued, the BLM would retain authority to modify or deny lease activities pursuant to nondiscretionary statutes such as the Endangered Species Act of 1973, as amended and the National Historic Preservation Act of 1966, as amended. Pursuant to IM 2002-174 (May 21, 2002) and IM 2005-03 (October 5, 2004), the following two lease stipulations would be attached to all lease parcels.

"The lease areas may now and hereafter contain plants, animals, or their habitats determined to be threatened, endangered, or other special status species. BLM may recommend modifications to exploration and development proposals to further its conservation and management objective to avoid BLM-approved activity that would contribute to a need to list such species or their habitat. BLM may require modifications to approve or disapprove proposed activity that is likely to result in jeopardy to the continued existence of a proposed or listed threatened or endangered species or result in the destruction or adverse modification of a designated or proposed critical habitat. BLM will not approve any ground-disturbing activity until it completes its obligations under applicable requirements of the Endangered Species Act as amended, 16 U.S.C. 1531 et seq. including completion of any required procedure for conference or consultation."

"This lease may be found to contain historic properties and/or resources protected under the National Historic Preservation Act (NHPA), American Indian Religious Freedom Act, Native American Graves Protection and Repatriation Act, E.O. 13007, or other statutes and executive orders. The BLM will not approve any ground disturbing activities that may affect any such properties or resources until it completes its obligations under applicable requirements of the NHPA and other authorities. The BLM may require modification to exploration or development proposals to protect such properties, or disapprove any activity that is likely to result in adverse effects that cannot be successfully avoided, minimized or mitigated."

A lease notice would be attached to two lease parcels to inform the potential lessee of the presence of desert bighorn sheep and habitat. Parcels UT0506-279 and UT0506-280 would include the following lease notice:

"The lessee/Operator is given notice that the land in this parcel contains habitat for desert bighorn sheep. Modifications to the surface use plan may be required in order to protect desert bighorn sheep and their habitat from surface disturbing activities. These modifications may include such measures as timing restrictions to avoid surface use during the crucial lambing and rutting seasons. Measures may also include avoidance of certain areas such as water sources and talus slopes"

A lease notice would be attached to one lease parcel to inform the potential lessee of the potential presence of Gunnison Sage-grouse and habitat. Parcel UT0506-300 would include the following lease notice:

"The Lessee/Operator is given notice that this lease parcel has been identified as containing potential

Gunnison Sage-grouse habitat. Modifications to the surface use plan of operations may be required in order to protect the sage-grouse and their habitat from surface disturbing activities. These modifications may include measures to avoid leks and/or timing restriction to avoid surface use during the breeding and nesting seasons.

A lease notice would be attached to nine lease parcels to inform the potential lessee of the potential presence of Gunnison prairie dogs and associated habitat. Parcels UT0506-284, UT0506-285, UT0506-286, UT0506-293, UT0506-294, UT0506-300, UT0506-302, UT0506-303, and UT0506-306 would include the following lease notice:

"The Lessee/Operator is given notice that the land in this parcel contains habitat for Gunnison prairie dogs. Modifications to the surface use plan may be required in order to protect prairie dogs and their habitat from surface disturbing activities. These modifications may include measures to avoid prairie dog colonies."

CONCLUSIONS

Based on the review documented above, I conclude that:

- ☒ This proposal conforms to the applicable land use plan.

Determination of NEPA Adequacy

- ☒ The existing NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirements of NEPA.
- ☐ The existing NEPA documentation does not fully cover the proposed action.

Sandra A. Mayeux
Signature of the Responsible Official

March 13, 2006
Date

Gunnison